

BILL LOCKYER, Attorney General
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California Department of Justice
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Attorneys for Complainant

**BEFORE THE
CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

SHUNJI MUSO
901 Corporate Center Dr., #400
Monterey Park, CA 91754

Certified Public Accountant License No. 34761

Respondent.

Case No. AC-2003-21

O.A.H. No. L-2003120131

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
above-entitled proceedings that the following matters are true:

PARTIES

1. Carol Sigmann (Complainant) is the Executive Officer of the California
Board of Accountancy. She brought this action solely in her official capacity and is represented
in this matter by Bill Lockyer, Attorney General of the State of California, by Shawn P. Cook,
Deputy Attorney General.

2. Respondent Shunji Muso (Respondent) is represented in this proceeding
by attorney John H. Hobson, Esq., whose address is 2001 Wilshire Bl., Suite 300, Santa Monica,
CA 90403.

3. On or about May 7, 1982, the California Board of Accountancy issued
Certified Public Accountant License No. 34761 to Shunji Muso (Respondent). The License was

1 in full force and effect at all times relevant to the charges brought in First Amended Accusation
2 No. AC-2003-21 and will expire on July 31, 2006, unless renewed.

3 JURISDICTION

4 4. First Amended Accusation No. AC-2003-21 was filed before the
5 California Board of Accountancy (Board), Department of Consumer Affairs, and is currently
6 pending against Respondent. The Accusation and all other statutorily required documents were
7 properly served on Respondent on August 10, 2004. Respondent timely filed his Notice of
8 Defense contesting the First Amended Accusation. A copy of First Amended Accusation No.
9 AC-2003-21 is attached as exhibit A and incorporated herein by reference.

10 ADVISEMENT AND WAIVERS

11 5. Respondent has carefully read, fully discussed with counsel, and
12 understands the charges and allegations in First Amended Accusation No. AC-2003-21.
13 Respondent has also carefully read, fully discussed with counsel, and understands the effects of
14 this Stipulated Settlement and Disciplinary Order.

15 6. Respondent is fully aware of his legal rights in this matter, including the
16 right to a hearing on the charges and allegations in the First Amended Accusation; the right to be
17 represented by counsel at his own expense; the right to confront and cross-examine the witnesses
18 against him; the right to present evidence and to testify on his own behalf; the right to the
19 issuance of subpoenas to compel the attendance of witnesses and the production of documents;
20 the right to reconsideration and court review of an adverse decision; and all other rights accorded
21 by the California Administrative Procedure Act and other applicable laws.

22 7. Respondent voluntarily, knowingly, and intelligently waives and gives up
23 each and every right set forth above.

24 CULPABILITY

25 8. Respondent admits the truth of each and every charge and allegation in
26 First Amended Accusation No. AC-2003-21.

27 9. Respondent agrees that his Certified Public Accountant License is subject

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1 to discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the
2 Disciplinary Order below.

3 CONTINGENCY

4 10. This stipulation shall be subject to approval by the California Board of
5 Accountancy. Respondent understands and agrees that counsel for Complainant and the staff of
6 the California Board of Accountancy may communicate directly with the Board regarding this
7 stipulation and settlement, without notice to or participation by Respondent or his counsel. By
8 signing the stipulation, Respondent understands and agrees that he may not withdraw his
9 agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon
10 it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement
11 and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be
12 inadmissible in any legal action between the parties, and the Board shall not be disqualified from
13 further action by having considered this matter.

14 11. The parties understand and agree that facsimile copies of this Stipulated
15 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
16 force and effect as the originals.

17 12. In consideration of the foregoing admissions and stipulations, the parties
18 agree that the Board may, without further notice or formal proceeding, issue and enter the
19 following Disciplinary Order:

20 DISCIPLINARY ORDER

21 IT IS HEREBY ORDERED that Certified Public Accountant License No. 34761
22 issued to Respondent Shunji Muso is revoked. However, the revocation is stayed and
23 Respondent is placed on probation for three (3) years on the following terms and conditions.

24 1. **Actual Suspension.** Certified Public Accountant License No. 34761
25 issued to Shunji Muso is suspended for one (1) year. During the period of suspension the
26 Respondent and Muso and Co., Inc. shall engage in no activities for which certification as a
27 Certified Public Accountant or Public Accountant or registration as a professional corporation is

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1 required as described in Business and Professions Code, Division 3, Chapter 1, Sections 5051,
2 5070 and 5151.

3 2. **Obey All Laws.** Respondent shall obey all federal, California, other
4 states' and local laws, including those rules relating to the practice of public accountancy in
5 California.

6 3. **Submit Written Reports.** Respondent shall submit, within ten (10) days
7 of completion of the quarter, written reports to the Board on a form obtained from the Board.
8 The Respondent shall submit, under penalty of perjury, such other written reports, declarations,
9 and verification of actions as are required. These declarations shall contain statements relative to
10 Respondent's compliance with all the terms and conditions of probation. Respondent shall
11 immediately execute all release of information forms as may be required by the Board or its
12 representatives.

13 4. **Personal Appearances.** Respondent shall, during the period of probation,
14 appear in person at interviews/meetings as directed by the Board or its designated
15 representatives, provided such notification is accomplished in a timely manner.

16 5. **Comply With Probation.** Respondent shall fully comply with the terms
17 and conditions of the probation imposed by the Board and shall cooperate fully with
18 representatives of the Board of Accountancy in its monitoring and investigation of the
19 Respondent's compliance with probation terms and conditions.

20 6. **Practice Investigation.** Respondent shall be subject to, and shall permit,
21 practice investigation of the Respondent's professional practice. Such a practice investigation
22 shall be conducted by representatives of the Board, provided notification of such review is
23 accomplished in a timely manner.

24 7. **Comply With Citations.** Respondent shall comply with all final orders
25 resulting from citations issued by the Board of Accountancy.

26 8. **Tolling of Probation For Out-of-State Residence/Practice.** In the event
27 Respondent should leave California to reside or practice outside this state, Respondent must
28 notify the Board in writing of the dates of departure and return. Periods of non-California

1 residency or practice outside the state shall not apply to reduction of the probationary period, or
2 of any suspension. No obligation imposed herein, including requirements to file written reports,
3 reimburse the Board costs, or make restitution to consumers, shall be suspended or otherwise
4 affected by such periods of out-of-state residency or practice except at the written direction of the
5 Board.

6 9. **Violation of Probation.** If Respondent violates probation in any respect,
7 the Board, after giving Respondent notice and an opportunity to be heard, may revoke probation
8 and carry out the disciplinary order that was stayed. If an accusation or a petition to revoke
9 probation is filed against Respondent during probation, the Board shall have continuing
10 jurisdiction until the matter is final, and the period of probation shall be extended until the matter
11 is final.

12 10. **Completion of Probation.** Upon successful completion of probation,
13 Respondent's license will be fully restored.

14 11. **Cost Reimbursement.** Respondent shall reimburse the Board \$6,296.05
15 for its investigation and prosecution costs. The payment shall be made as follows in quarterly
16 payments (due with quarterly written reports), the final payment being due one year before
17 probation is scheduled to terminate.

18 12. **Notification to Clients/Cessation of Practice.** In orders which provide
19 for a cessation or suspension of practice, Respondent shall comply with procedures provided by
20 the Board of Accountancy or its designee regarding notification to, and management of, clients.

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SENT BY: MUSO&CO;

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Sent By: John Hobson, Esq.;

310 315 7222;

Aug-13-04 12:14;

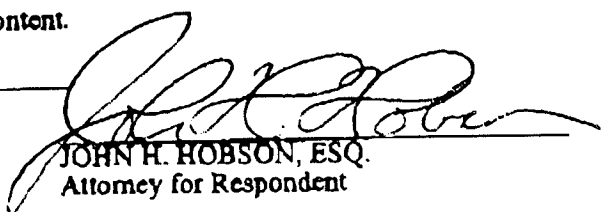
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ACCEPTANCE

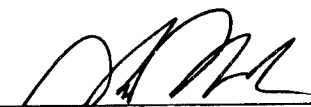
I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, John H. Hobson, Esq.. I understand the stipulation and the effect it will have on my Certified Public Accountant License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the California Board of Accountancy.

DATED: August 13, 2004
SHUNJI MUSO
Respondent

I have read and fully discussed with Respondent Shunji Muso the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 8-13-04
JOHN H. HOBSON, ESQ.
Attorney for RespondentENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the California Board of Accountancy of the Department of Consumer Affairs.

DATED: 8/16/04BILL LOCKYER, Attorney General
of the State of California
SHAWN P. COOK
Deputy Attorney General

Attorneys for Complainant

Exhibit A
Accusation No. AC-2003-21

BILL LOCKYER, Attorney General
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Certified Public Accountant License No. 34761

Respondent.

Case No. AC-2003-21

O.A.H. No. L-2003120131

**FIRST AMENDED
ACCUSATION**

Complainant alleges:

PARTIES

1. Carol Sigmann (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the California Board of Accountancy, Department of Consumer Affairs (Board).

2. On or about May 7, 1982, the California Board of Accountancy issued Certified Public Accountant License No. 34761 to Shunji Muso (Respondent). The Certified Public Accountant License was in full force and effect at all times relevant to the charges brought herein and will expire on July 31, 2006, unless renewed.

JURISDICTION

3. This Accusation is brought before the California Board of Accountancy

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1 (Board), Department of Consumer Affairs, under the authority of the following laws. All section
2 references are to the Business and Professions Code unless otherwise indicated.

3 4. Section 5100 states:

4 "After notice and hearing the board may revoke, suspend, or refuse to renew any
5 permit or certificate granted under Article 4 (commencing with Section 5070) and Article 5
6 (commencing with Section 5080), or may censure the holder of that permit or certificate for
7 unprofessional conduct that includes, but is not limited to, one or any combination of the
8 following causes:

9 "(a) Conviction of any crime substantially related to the qualifications, functions
10 and duties of a certified public accountant or a public accountant.

11

12 "(g) Willful violation of this chapter or any rule or regulation promulgated by the
13 board under the authority granted under this chapter.

14

15 "(j) Knowing preparation, publication or dissemination of false, fraudulent, or
16 materially misleading financial statements, reports, or information.

17 5. Section 118, subdivision (b), of the Code provides that the
18 suspension/expiration of a license shall not deprive the Board of jurisdiction to proceed with a
19 disciplinary action during the period within which the license may be renewed, restored, reissued
20 or reinstated.

21 6. Section 5106 states:

22 "A plea or verdict of guilty or a conviction following a plea of nolo contendere is
23 deemed to be a conviction within the meaning of this article. The record of the conviction shall
24 be conclusive evidence thereof. The board may order the certificate or permit suspended or
25 revoked, or may decline to issue a certificate or permit, when the time for appeal has elapsed, or
26 the judgment of conviction has been affirmed on appeal or when an order granting probation is
27 made, suspending the imposition of sentence, irrespective of a subsequent order under the
28 provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his plea of

1 guilty and to enter a plea of not guilty, or setting aside the verdict of guilty or dismissing the
2 accusation, information or indictment."

3 7. Section 490 of the Code states:

4 "A board may suspend or revoke a license on the ground that the licensee has been
5 convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties
6 of the business or profession for which the license was issued. A conviction within the meaning
7 of this section means a plea or verdict of guilty or a conviction following a plea of nolo
8 contendere. Any action which a board is permitted to take following the establishment of a
9 conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has
10 been affirmed on appeal, or when an order granting probation is made suspending the imposition
11 of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the
12 Penal Code."

13 8. Section 5050 of the Code states in pertinent part that no person shall
14 engage in the practice of public accountancy in this State unless such person is the holder of a
15 valid permit to practice public accountancy issued by the board.

16 9. Section 5035 defines "person" to include individual, partnership, firm or
17 corporation.

18 10. Section 5070 of the Code provides in pertinent part that permits to engage
19 in the practice of public accountancy in this state shall be issued by the board only to holders of
20 the certificate of certified public accountant issued under this chapter and to those partnerships,
21 corporations, and other persons who, upon application approved by the board, are registered with
22 the board under this chapter. All applicants for registration shall furnish satisfactory evidence
23 that the applicant is entitled to registration.

24 11. Section 5151 of the Code states in pertinent part that an applicant for
25 registration as an accountancy corporation shall supply to the board all necessary and pertinent
26 documents and information requested by the board concerning the applicant's plan of operation.

27 12. Corporations Code sec. 13404 provides in pertinent part that a corporation
28 may be formed under the General Corporation Law or pursuant to subdivision (b) of Section

1 13406 for the purposes of qualifying as a professional corporation and rendering professional
2 services. The articles of incorporation of a professional corporation shall contain a specific
3 statement that the corporation is a professional corporation within the meaning of this part.
4 Except as provided in subdivision (b) of Section 13401, no professional corporation shall render
5 professional services in this state without a currently effective certificate of registration issued by
6 the governmental agency regulating the profession in which such corporation is or proposes to be
7 engaged, pursuant to the applicable provisions of the Business and Professions Code.

8 13. Corporations Code sec. 13408 provides in pertinent part that a certificate
9 of registration of a professional corporation may be suspended or revoked: (a) if all shareholders
10 who are licensed persons of such corporation shall at any one time become disqualified persons,
11 or (b) if the sole shareholder shall become a disqualified person, or (c) if such corporation shall
12 knowingly employ or retain in its employment a disqualified person, or (d) if such corporation
13 shall violate any applicable rule or regulation adopted by the governmental agency regulating the
14 profession in which such corporation is engaged, or (e) if such corporation shall violate any
15 statute applicable to a professional corporation or to a foreign professional corporation, or (f) any
16 ground for such suspension or revocation specified in the Business and Professions Code relating
17 to the profession in which such corporation is engaged. In the event of such suspension or
18 revocation of its certificate of registration such corporation shall cease forthwith to render
19 professional services in this state.

20 14. Section 5107, subdivision (a), states, in pertinent part:

21 "The executive officer of the board may request the administrative law judge, as
22 part of the proposed decision in a disciplinary proceeding, to direct any holder of a permit or
23 certificate found guilty of unprofessional conduct in violation of subdivisions (b), (c), (i) [now
24 subdivision (j)], or (j) [now subdivision (k)] of Section 5100, or involving a felony conviction in
25 violation of subdivision (a) of Section 5100, or involving fiscal dishonesty in violation of
26 subdivision (h) of Section 5100 [now subdivision (i) of Section 5100], to pay to the board all
27 reasonable costs of investigation and prosecution of the case, including, but not limited to,
28 attorneys' fees. The board shall not recover costs incurred at the administrative hearing."

1 FIRST CAUSE FOR DISCIPLINE

2 (Substantially Related Conviction)

3 15. Respondent is subject to disciplinary action under section 5100(a) and
4 490, in that Respondent has been convicted of crimes substantially related to the qualifications,
5 functions, or duties of a Certified Public Accountant, as set forth below:

6 A. On or about March 14, 2002, Respondent was convicted on his plea of
7 guilty to one count of violating Title 31, United States Code, Sections 5316(a) and 5322(a)
8 (failure to report importation of monetary instruments), a felony, in the United States District
9 Court, Central District, State of California, Case No. CR 01-369-MMM, entitled *The United*
10 *States of America v. Shunji Muso*.

11 B. The circumstances surrounding the conviction are that on or about June
12 28, 2000, Respondent, on behalf of a client, knowingly and willfully, transported more than
13 \$10,000 in monetary instruments at one time, to a place in the United States, from a place outside
14 of the United States, and willfully failed to report the amount of the instruments transported. The
15 conviction for crimes of fiscal dishonesty is substantially related to the qualifications, functions
16 or duties of a licensee.

17 SECOND CAUSE FOR DISCIPLINE

18 (Unprofessional Conduct)

19 16. Respondent is subject to disciplinary action under section 5100(j), on the
20 grounds of unprofessional conduct, in that Respondent knowingly transported the following
21 amounts of United States Currency on commercial airline flights form Tokyo, Japan to Los
22 Angeles, California:

23	DATE	AMOUNT
24	June 28, 2000	\$ 690,000
25	July 27, 2000	\$ 800,000
26	August 31, 2000	\$ 1,000,000
27	September 24, 2000	\$ 1,000,000
28	October 19, 2000	\$ 1,000,000

1 November 16, 200

\$ 200,000

2 **TOTAL:**

\$ 4,690,000

3
4 In conjunction with these acts, Respondent completed a Unites States Customs form
5 #6059B on each separate date above but failed to report the amount of currency he was
6 transporting into the United States, when in fact, Respondent knew that he was required to do so.

7 **THIRD CAUSE FOR DISCIPLINE**

8 (Failure to Register Professional Accountancy Corporation)

9 17. Muso and Co., Inc., is and at all relevant times herein was, a corporation
10 organized and existing under the laws of the State of California, with its principal place of
11 business in Monterey Park, California. Respondent Shunji Muso is the sole officer, director and
12 shareholder of Muso and Co., Inc. which was formed by Respondent to conduct his professional
13 accounting practice.

14 18. Respondent is subject to disciplinary action under section 5100(g), for
15 violation of sections 5050 and 5151, in that Respondent has failed to register Muso and Co., Inc.
16 with the Board, though he has engaged in the practice of public accountancy through the
17 professional corporation.

18 19. Respondent's failure to register Muso and Co., Inc. with the Board,
19 further constitutes violation of Corporations Code section 13404.

20 20. Pursuant to Corporations Code section 13408, if discipline is imposed on
21 Certified Public Accountant License No. 34761 issued to Shunji Muso, then any certificate
22 of registration of a professional corporation issued to Muso and Co., Inc., may be suspended or
23 revoked, and such corporation shall cease forthwith to render professional services in this state.

24 **PRAYER**

25 WHEREFORE, Complainant requests that a hearing be held on the matters herein
26 alleged, and that following the hearing, the California Board of Accountancy issue a decision:

27 1. Revoking, suspending, or otherwise imposing discipline upon Certified
28 Public Accountant License No. 34761, issued to Shunji Muso;

1 2. Ordering Shunji Muso to pay the California Board of Accountancy the
2 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
3 Professions Code section 5107;

4 2. Taking such other and further action as deemed necessary and proper.

5 DATED: 10 August 2004

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7
8  (for)

CAROL SIGMANN
Executive Officer
California Board of Accountancy
Department of Consumer Affairs
State of California
Complainant

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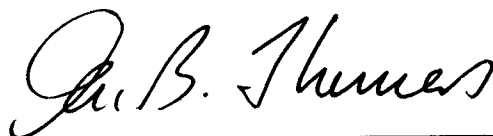
O.A.H. No. L-2003120131

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the California Board of Accountancy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on October 15, 2004.

It is so ORDERED September 15, 2004.



FOR THE CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS